

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NOs.3400 AND 3617 OF 2016

DATED:05-08-2016

Between:

Kolli Gangunaidu ... Petitioner

And

Kolli Ammajamma
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. Prabhala Raja Sekhar

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

COMMON ORDER:

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Both these civil revision petitions arise out of a common suit between the same parties. Hence, they are heard and disposed of together.

Respondent No.1 filed the afore-mentioned suit for partition against the petitioner and respondent Nos.2 to 4. After conclusion of the trial, when the case was coming up for arguments, the petitioner filed I.A. No.864 of 2016 for reopening the evidence and I.A. No.865 of 2016 for summoning P.W.1 for further cross-examination. Both these applications having been dismissed by the lower Court, the petitioners filed C.R.P. No.3400 of 2016 against the order in I.A. No.865 of 2016 and C.R.P. No.3617 of 2016 against the order in I.A. No.864 of 2016. The only ground on which the petitioner filed the above-mentioned two I.As was to further cross-examine P.W.1, for the reason that during the cross-examination of respondent No.4 as D.W.6 she has taken the stand that there was prior partition. As noted above, the lower Court has rejected the applications. In my opinion, there is no merit in these civil revision petitions, for, if respondent - defendant No.4 has deposed contrary to her earlier stand, no purpose would be served by recalling P.W.1 for putting a suggestion to her that there is collusion between herself and respondent No.4. By putting such suggestion, the petitioner will not in any manner improve his case. The question whether there was prior partition or not could be adjudicated based on evidence and not on mere *ipse dixit* of the witnesses. As the burden lies heavily on the petitioner to prove prior partition, any amount of suggestions that may be put to respondent No.1 – plaintiff would not advance his cause. In my opinion, filing of the two applications is obviously intended to prolong the litigation. In my view, the lower

Court has not committed any illegality or jurisdictional error in dismissing both the applications.

The civil revision petitions are therefore dismissed.

As a sequel to dismissal of the civil revision petitions, C.R.P.M.P. No.4649 of 2016 in C.R.P. No.3617 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

05-08-2016

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